



KAPLAN KIRSCH ROCKWELL

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**SURFACE
TRANSPORTATION BOARD**

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VIA HAND DELIVERY

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

**ENTERED
Office of Proceedings**

DEC 29 2011

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**SURFACE
TRANSPORTATION BOARD**

Re: *Los Angeles County Metropolitan Transportation Authority – Abandonment Exemption –
in Los Angeles County, CA*
STB Docket No. AB-409 (Sub-No. 6X)

Dear Ms. Brown:

I am enclosing an original and ten (10) copies of the Los Angeles County Metropolitan Transportation Authority's Verified Notice of Exemption in the above-captioned proceeding.

With respect to the filing fee, we have enclosed a check in the amount of \$3,600. However, Los Angeles County Metropolitan Transportation Authority ("LACMTA") is seeking a waiver of the filing fee based on the fact that it is a local government entity filing the Notice of Exemption on behalf of the general public. See 49 C.F.R. §1002.2(e); STB Ex Parte No. 542 (Sub-No. 6) - *Regulations Governing Fees For Services Performed In Connection With Licensing And Related Services--Policy Statement* (Served December 6, 2000). In this matter, LACMTA will abandon approximately 4.85 miles of railroad right-of-way and related facilities in Los Angeles County, California. LACMTA is a "state or local government entity".

Please date stamp the extra copy and return to our messenger. Please note that a CD is enclosed.

**ENTERED
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Enclosure

Sincerely,

Charles A. Spitulnik

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**SURFACE
TRANSPORTATION BOARD**

Attorneys at Law
Denver • New York • Washington, DC

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Washington, DC 20036
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**BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, DC**

Docket No. AB-409 (Sub-No. 6X)

**LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
– ABANDONMENT EXEMPTION –
IN LOS ANGELES COUNTY, CA**

VERIFIED NOTICE OF EXEMPTION

Communications with respect to this document
should be addressed to:

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December 29, 2011

**BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, DC**

Docket No. AB-409 (Sub-No. 6X)

**LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
– ABANDONMENT EXEMPTION –
IN LOS ANGELES COUNTY, CA**

VERIFIED NOTICE OF EXEMPTION

The Los Angeles County Metropolitan Transportation Authority (“**LACMTA**” or “**Applicant**”) hereby submits this Verified Notice of Exemption in compliance with the procedures set forth in *Los Angeles Co. Transp. Comm’n – Acquisition Exemption – A. T. and S. F. Ry. Co.*, STB Finance Docket No. 32172, *et al.*, slip op. (Service Date March 12, 1997) (the “*1997 Decision*”). This Notice relates to an abandonment of service on a 4.85 mile line of railroad in Los Angeles County, California, from Milepost 119.35 to Milepost 124.20, which comprises a portion of a line known as the Pasadena Subdivision (the “**Line**”). The Line is coterminous with the line for which BNSF Railway Company (“**BNSF**”) has obtained abandonment authority. *BNSF Ry. Co. – Abandonment Exemption – In Los Angeles Co., CA*, STB Docket No. AB-6 (Sub-No. 477X) (Service Date Sept. 16, 2011) (“*Sept. 16 Decision*”). BNSF’s exemption became effective on October 16, 2011. *Sept. 16 Decision* at 10.

LACMTA’s predecessor agency, the Los Angeles County Transportation Commission (“**LACTC**”), acquired the Line from the Atchison Topeka and Santa Fe Railway Company, (“**ATSF**”) in 1992. *1997 Decision* at 2, n.9. As a result of this transfer, LACTC acquired the real property associated with the Line, and ATSF retained all operating rights and the primary common carrier obligation. Accordingly, LACTC acquired a residual common carrier obligation as the owner

of the Line, over which service was being provided by ATSF. *1997 Decision* at 4. LACMTA acquired the physical assets of the Line and LACTC's residual common carrier obligation when it succeeded to LACTC's interest.

In accordance with the procedures established in the *1997 Decision*, LACMTA is now submitting this Notice to effect the abandonment of its residual common carrier obligation, thus confirming that no freight service is available on the Line.

The abandonment will permit the Line to be used for the public benefit. The Line comprises part of the extensive network of rail lines acquired by LACTC in the early 1990's to facilitate the establishment of Los Angeles County's commuter and light rail transit network and dedicated busway. The Line is part of the originally planned passenger transit network and is now needed to support proposed construction activities and future operations. Once the Line is fully abandoned, LACMTA intends to use the Line as a passenger rail corridor to extend LACMTA's existing light rail service eastward to Azusa as part of the Metro Gold Line Extension Project. Accordingly, the Line will continue to be put to public use.

This Board has previously determined under the procedures set forth in the *1997 Decision* that LACMTA's abandonment exemption in this context is exempt from offer of financial assistance and public use procedures. *Los Angeles County Metropolitan Transp. Auth. – Abandonment Exemption – In Los Angeles County, CA*, STB Docket No. AB-409 (Sub-No. 5X) (Service Date Jul. 17, 2008), *slip op.* at 5.

The information required by the *1997 Decision* follows:

1. The level of labor protection: No rail employees will be adversely affected by this transaction. The interests of railroad employees will be protected in accordance with the conditions set forth in *Oregon Short Line R. Co. – Abandonment*, 360 I.C.C. 91 (1979).

2. Environmental and Historic Reporting. Pursuant to the *1997 Decision*, LACMTA adopts in this proceeding the Environmental and Historic Reports filed by BNSF in AB-409 (Sub-No. 477X) on May 12, 2011.

The STB's Office of Environmental Analysis ("OEA") issued its Environmental Assessment in the BNSF abandonment proceeding on July 29, 2011, and recommended that this Board impose conditions (1) requiring BNSF to employ best management practices to prevent erosion during salvage activities; (2) requiring BNSF to consult with the Army Corps of Engineers prior to the commencement of salvage activities regarding the abandonment's potential impact on the San Gabriel River and (3) requiring BNSF to take no steps to alter the historic integrity of historic properties prior to the completion of consultation under Section 106 of the National Historic Preservation Act. Environmental Assessment, STB Docket No. AB-6 (Sub-No. 477X) at 7 (Service Date July 29, 2011). In the *Sept. 16 Decision*, the STB imposed the conditions recommended by OEA, and also included two additional conditions requiring BNSF to hire a qualified biologist to assess the potential impacts of salvage activities on federally-listed threatened or endangered species and report to OEA on the results of consultation with the US Fish and Wildlife Service and the California Department of Fish and Game. *Sept. 16 Decision* at 9-10. In a Decision issued on Oct. 6, 2011, on the basis of a determination by the California State Historic Preservation Officer ("SHPO") that no historic properties are present in the abandonment area, this Board removed the third condition, which had required BNSF to comply with the requirements of Section 106 of the Historic Preservation Act prior to any salvage activities. *BNSF Ry. Co. – Abandonment Exemption – In Los Angeles Co., CA*, STB Docket No. AB-6 (Sub-No. 477X) (Service Date Oct. 6, 2011) ("*Oct. 6 Decision*"). In a Decision issued on November 23, 2011, on the basis of a Supplemental Final Environmental Assessment issued by OEA on November 9, 2011, the Board removed the fourth

condition, which required BNSF to retain a qualified biologist,¹ and imposed two new conditions.

The new conditions require BNSF to

- (1) ensure that salvage activities in the vicinity of coastal sage scrub habitat are avoided during the California gnatcatcher's breeding season (February 15 – August 30) to avoid potential indirect impacts to the federally threatened California gnatcatcher; and
 - (2) ensure that any vegetation clearing that occurs as part of salvage activities shall be conducted during the non-breeding season (September 1 through February 14) to avoid impacts to migratory birds and raptors, and if vegetation clearing is required during salvage activities, ensure that a qualified biologist conducts a nesting bird survey prior to any salvage activities and in the event an active nest is found within or adjacent to the right-of-way, then a 500-foot buffer zone be established and no clearing be allowed within the buffer zone until the biologist determines that the nest is no longer active.
- BNSF Ry. Co. – Abandonment Exemption – In Los Angeles Co., CA*, STB Docket No. AB-6 (Sub-No. 477X) (Service Date Nov. 23, 2011) (“*Nov. 23 Decision*”).

All of the remaining conditions imposed by the Board have been satisfied or will be satisfied in conformance with regulations governing LACMTA's proposed construction of the Metro Gold Line Extension Project. Following consummation of the proposed abandonment in this proceeding, LACMTA intends to authorize salvage of the Line as part of the Metro Gold Line Extension Project. The removal of track and track materials and related salvage activities in connection with that project will be conducted in accordance with National Environmental Policy Act (“NEPA”) and California Environmental Quality Act (“CEQA”) requirements. The independent agency responsible for the construction phase of the Metro Gold Line Extension Project, the Metro Gold

¹ On October 7, 2011, BNSF submitted into the record of AB-6 (Sub-No. 477X) a biological report prepared by ICF International in response to this condition. *BNSF Ry. Co. – Abandonment Exemption – In Los Angeles Co., CA*, STB Docket No. AB-6 (Sub-No. 477X), Biological Report (Filed Oct. 7, 2011) (“Biological Report”).

Line Foothill Extension Construction Authority (“**Construction Authority**”), in cooperation with various federal and state agencies, including LACMTA (collectively, the “**Project Proponents**”), prepared a Final Environmental Report in 2007 (“**EIR**”) (available at http://www.foothillextension.org/construction_phases/azusa_to_montclair/final-environmental-impact-report-completed-2007/) and a Supplemental Environmental Impact Report in 2011 (“**SEIR**”) (available at http://www.foothillextension.org/construction_phases/pasadena_to_azusa/supplemental-environmental-impact-report/) to assess the project’s anticipated impacts in accordance with NEPA, CEQA and related statutes such as Section 106 of the National Historic Preservation Act of 1966 (“**Section 106**”). The review already conducted in connection with the Metro Gold Line Extension Project satisfies the Board’s conditions as follows:

- a. Best management practices. Future salvage and construction activities will incorporate erosion control during all phases of grading on or near significant slopes. SEIR § 4.10.5. Erosion measures, such as control of surface runoff, berms, erosion matting and v-ditches, will be implemented during construction and will remain in place throughout final grading work, and all distributed areas are to be permanently stabilized through vegetation and other means. *Id.* With this and other mitigation measures, soils impacts during salvage of the existing track and construction of the Gold Line Extension will be reduced to less than significant levels. *Id.* Further, the Project is currently covered under the General Permit for Discharges of Storm Water Associated with Construction Activity Construction General NPDES Permit CAS000002, Order 2009-0009-DWQ (the “General Permit”). All construction activity on the Project will be required to such as clearing, grading and disturbances to the ground such as stockpiling, or excavation to adhere to the

requirements of the General Permit. Since the impacts of salvage activities have already been addressed in connection with the Metro Gold Line Extension Project, the Board's condition to employ best practices has already been satisfied.

- b. Consultation with the U.S. Army Corps of Engineers regarding potential impacts on the San Gabriel River. On October 5, 2011, BNSF submitted into the record of its abandonment proceeding a letter from the U.S. Army Corps of Engineers determining that the proposed abandonment will not require a Section 404 permit from the Army. *BNSF Ry. Co. – Abandonment Exemption – In Los Angeles Co., CA*, STB Docket No. AB-6 (Sub-No. 477X), Letter (Filed Oct. 5, 2011). Furthermore, the existing San Gabriel River Bridge will not meet seismic retrofit standards for the Metro Gold Line Extension Project, and the SEIR indicates that the existing structure will need to be removed entirely and a new bridge constructed. SEIR at § 2.1.1. The San Gabriel bridge replacement will occur within the active channel of the San Gabriel River, and will require the Project Proponents to obtain a permit from the U.S. Army Corps of Engineers. This permit will include mitigation measures if any hydraulic or hydrologic impacts are identified during the permitting process. *Id.* at § 4.11.3.1. Hydrological impacts due to construction of the new bridge are not expected to be significant, and the Project Proponents will comply during the bridge replacement with the requirements of the Clean Water Act, U.S. Army Corps of Engineers, California Department of Fish and Game, the State Water Resources Control Board, and Regional Water Quality Control Boards including the Los Angeles Regional Water Quality Control Board. *Id.* at § 4.11.4.2. The abandonment will not result in impacts to the San Gabriel River, and all subsequent activities on the Line will be subject to CEQA and NEPA requirements. LACMTA has

already obtained the permits required for its work from the Los Angeles Regional Water Quality Control Board, U.S. Army Corps of Engineers, and California Department of Fish and Game. Accordingly, LACMTA asserts that the condition requiring consultation with the Army Corps of Engineers regarding potential impacts on the San Gabriel River have already been satisfied.

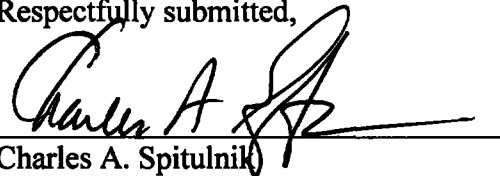
- c. Section 106 Consultation. On October 5, 2011, the Board removed the historic preservation condition it had imposed in this proceeding. *Oct. 6. Decision* at 2.
- d. Restriction of schedule of salvage activities in the vicinity of coastal sage scrub habitat.
LACMTA will not conduct salvage activities in the right-of-way between February 15 and August 30 where coastal sage scrub habitat within the right-of-way may be disturbed.
- e. Restriction of schedule of vegetation clearing in connection with salvage activities. No clearing of vegetation will be required in connection with salvage activities. With respect to subsequent construction of improvements in the right-of-way, Sections 2.1 through 2.6 of the Lake and Streambed Alteration Agreement with the California Department of Fish and Game (“DFG”), attached hereto as **Exhibit B** (“DFG Permit”), require LACMTA to consult with, and obtain approval from, DFG in connection with (a) surveys of rare, threatened and endangered species; (b) monitoring; and (c) measures to protect nesting raptors; and measures to protect native nesting birds in areas where proposed construction crosses the San Gabriel River and its tributaries. The DFG Permit sets out requirements substantially similar to those imposed by this Board in the *Nov. 23 Decision* limiting salvage activities to the non-breeding season from September 1 through February 14, requiring a qualified biologist to conduct a survey prior to salvage activities, and

requiring a buffer zone around any nests discovered within or adjacent to the right-of-way. *Nov. 23 Decision* at 2; DFG Permit at Sections 2.5, 2.6.

Because all conditions the Board imposed on BNSF in connection with the exercise of the abandonment authority granted in AB-6 (Sub-No. 477X) have been satisfied as demonstrated above, LACMTA respectfully requests that this Board grant the authority to abandon LACMTA's residual common carrier obligation on the Line without the imposition of any conditions relating to environmental matters.

3. Draft Federal Register Notice. A draft of a proposed Federal Register notice is attached hereto as Exhibit A.

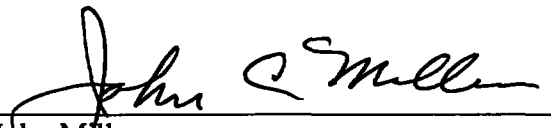
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles A. Spitulnik", written over a horizontal line.

Charles A. Spitulnik
Allison I. Fultz
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Suite 800
Washington, DC 20036
Phone: (202) 955-5600
cspitulnik@kaplankirsch.com
afultz@kaplankirsch.com

VERIFICATION AND CERTIFICATION

I, John Miller, Project Engineer, Manager, of Los Angeles County Metropolitan Transportation Authority, verify under penalty of perjury that the facts recited in the foregoing Notice of Exemption are true and correct. Further, I certify that I have personal knowledge of the facts stated therein and that I am authorized to verify these facts stated in this Verified Notice of Exemption.



John Miller
Project Engineer, Manager

STATE OF CALIFORNIA }
COUNTY OF Los Angeles }

On December 21, 2011, before me, Reginnia G. Kaping, a Notary Public, personally appeared John C. Miller

_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies); and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Reginnia G. Kaping (Seal)

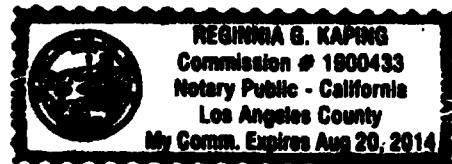


EXHIBIT A

DRAFT FEDERAL REGISTER NOTICE
[attached hereto]

BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, DC

Docket No. AB-409 (Sub-No. 6X)

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
– ABANDONMENT EXEMPTION –
IN LOS ANGELES COUNTY, CA

On December 29, 2011, the Los Angeles County Metropolitan Transportation Authority (“LACMTA”) filed with the Surface Transportation Board, Washington, D.C. 20423, a notice of exemption for the abandonment of a portion of a line of railroad known as Pasadena Subdivision, extending from railroad Milepost 119.35 to Milepost 124.20 in Los Angeles, California, which traverses through United States Postal Service ZIP Codes 91006, 91007, 91010, 91016, and 91702, a distance of 4.85 miles, in Los Angeles County, California. This is the same line for which BNSF Railway Company has obtained abandonment authority in *BNSF Ry. Co. – Abandonment Exemption – In Los Angeles Co., CA*, STB Docket No. AB-6 (Sub-No. 477X). The line for which the abandonment exemption was filed includes no stations.

The line contains federally granted rights-of-way. Any documentation in LACMTA’s possession will be made available promptly to those requesting it.

No rail service has moved over the subject line in more than 24 months. Accordingly, no rail employees will be affected by the proposed abandonment.

Pursuant to procedures adopted by this Board in *Los Angeles Co. Transp. Comm’n – Acquisition Exemption – A. T. and S. F. Ry. Co.*, STB Finance Docket No. 32172, *et al.*, *slip op.* (Service Date March 12, 1997) (the “1997 Decision”), LACMTA will not prepare separate environmental documentation in this proceeding but will rely on the environmental documentation prepared and submitted by BNSF in *BNSF Ry. Co. – Abandonment Exemption – In Los Angeles Co., CA*, STB Docket No. AB-6 (Sub-No. 477X).

This Board has previously determined under the procedures set forth in the *1997 Decision* that LACMTA’s abandonment in the circumstances presented by this proceeding is exempt from offer of financial assistance and public use procedures. *Los Angeles County Metropolitan Transp. Auth. – Abandonment Exemption – In Los Angeles County, CA*, STB Docket No. AB-409 (Sub-No. 5X) (Service Date Jul. 17, 2008), *slip op.* at 5.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board’s Section of Environmental Analysis.

EXHIBIT B

**CALIFORNIA DEPARTMENT OF FISH AND GAME
LAKE AND STREAMBED ALTERATION AGREEMENT
Notification No. 1600-2011-0089-R5**

[attached hereto]

CALIFORNIA DFG OF FISH AND GAME
SOUTH COAST REGION 5
3883 RUFFIN RD.
SAN DIEGO, CA 92123



LAKE AND STREAMBED ALTERATION AGREEMENT

NOTIFICATION NO. 1600-2011-0089-R5

Alta Vista Wash, Santa Anita Wash, Saw Pit Wash (All tributary to the San Gabriel River), and the San Gabriel River

METRO GOLD LINE FOOTHILL EXTENSION CONSTRUCTION AUTHORITY
PHASE 2A OF THE METRO GOLD LINE FOOTHILL EXTENSION PROJECT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and Metro Gold Line Foothill Extension Construction Authority, (Permittee) represented by Mr. Chris Burner 406 East Huntington Drive, Suite 202, Monrovia, California, 91606 (626) 305-7022. Representing the Permittee as contact for this project is Mr. Kurt Kroner with the Metro Gold Line Foothill Extension Construction Authority (626) 305-7044.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on March 14, 2011 that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, DFG has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement

PROJECT LOCATION

The Project is located within the San Gabriel Valley at four different locations along 11.5 miles of existing rail alignment spanning between Pasadena and Azusa closely following the interstate 210 freeway. Subject to this agreement four project sites exist and are located where the rail alignment crosses over the Alta Vista Wash, Santa Anita Wash, Sawpit Wash, and the San Gabriel River.

PROJECT DESCRIPTION

The project will provide Light Rail Transit (LRT) along an existing rail alignment in a section or nearby that will cross over the four jurisdictional streambeds described above in the project location. The project, as proposed, shall involve the removal of an existing one-track system and the construction of a double track rail system to accommodate LRT lines spanning from Pasadena to Azusa. Project-related activities occurring at all four washes shall follow the general project description provided below:

- Demolition of the existing bridge in three phases: removal of existing rails, ballast and deck pans; removal of steel thru-girders; demolition of existing concrete abutments, piers and foundations.
- Installation of new reinforced concrete piers, abutments, and foundations.
- Installation of pier caps.
- Construction of bridge superstructure with the following components: placement of girders; installation of deck pans followed by pouring of concrete deck in place; necessary appurtenances added such as safety railing, overhead contact system poles, a concrete plinth, continuously welded rail and direct fixation rail fasteners.

In addition, project-related activities specific to each location are described below:

Alta Vista Wash

- Demolition of the existing bridge including in-channel piers.
- Construction of a new concrete bridge clear spanning the channel without the need to construct in-channel support piers.

Santa Anita Wash

- Demolition of the existing two span steel plate thru-girder bridge
- Construction of a new single span concrete bridge (pre-cast beams and a cast in place deck)
- The eastern most span of the existing structure shall be replaced with embankment and a new abutment shall be located east of the channel to allow for a maintenance access road.
- All project-related activities shall take place outside of the existing concrete channel.

Sawpit Wash

- Demolition of the existing single span steel plate thru-girder bridge
- Construction of a new single span concrete bridge (either pre-cast or cast in place)
- All project- related activities shall take place outside of the existing streambed.

San Gabriel River

- Demolition of the existing seven span steel plate thru-girder bridge.
- Limited removal of existing grouted rip-rap presently lining the streambed.
- Construction of a new seven span concrete bridge with pre-cast concrete girders and a cast-in-place deck.
- Construction of the new piers may begin after the first one or two piers are removed.

Construction equipment shall include drill rigs/ augers, cranes, jackhammers, hoe-rams, large breakers, shears, compressors, concrete trucks and pumping equipment, dump trucks, front- end loaders, paving machines and large tractor-trailer rigs.

As noted above, of the four locations, work within the streambed shall take place in no more than two of the locations, San Gabriel River and Alta Vista Wash. Work is proposed outside of the existing concrete channel for the remaining two locations (Santa Anita Wash and Sawpit Wash).

PROJECT IMPACTS

Within the 11.5 miles of the project work site DFG has regulatory authority over 5.19 acres of jurisdictional streams, of which no more than 0.82 acre shall be temporarily impacted. Permittee proposes to avoid impacts to the remaining 4.37 acres of jurisdictional streams. Project activities associated with San Gabriel River Bridge replacement shall result in temporary impacts to 0.82 acre of streambed vegetated with mulefat scrub and exotic nonnative species through construction-related activities including, but not limited to, clearing, grading, and filling. Project activities associated with the Alta Vista Wash bridge replacement shall occur within the existing concrete-lined channel and no vegetation shall be impacted. There shall be no permanent impacts associated with project-related activities.

Existing fish or wildlife resources the project could substantially adversely affect include: **Reptiles:** western pond turtle (*Actinemys marmorata pallida*), two- striped garter snake (*Thamnophis hammondi*), coast horned lizard (*Phrynosoma coronatum blainvillii*), rosy boa (*Charina trivirgata*); **Fish:** arroyo chub (*Gila orcuttii*), Santa Ana speckled dace

(*Rhinichthys osculus*), Santa Ana sucker (*Catostomus santaanae*); **Birds:** Cooper's hawk (*Accipiter cooperii*), burrowing owl (*Athene cunicularia hypugea*), coastal cactus wren (*Campyloryhnchus brunneicapillus couesi*), south western willow flycatcher (*Empidonax traillii extimus*), Coastal California gnatcatcher (*Polioptila californica californica*), least Bell's vireo (*Vireo bellii pusillus*), southern California rufous crowned sparrow (*Aimophila ruficeps canescens*) **Mammals:** San Diego woodrat (*Neotoma lepida intermedia*); **Native Plants:** Nevin's barberry (*Berberis nevinii*), slender-horned spineflower (*Dodecahema leptoceras*), slender mariposa lily (*Calochortus clavatus var. gracilis*), Plummer's mariposa lily (*Calochortus plummerae*), San Gabriel Mountains dudleya (*Dudleya densiflora*), mesa horkelia (*Horkelia cuneata var. Puberula*), Robinson's peppergrass (*Lepidium virginicum var. robinsonii*), Davidson's bushmallow (*Malacothamnus davidsonii*), prostrate navarettia (*Navarettia prostrate*), Brandt's phacelia (*Phacelia stellaris*), rayless ragwort (*Senecio aphanactis*), mulefat scrub and all other aquatic and wildlife resources in the area, including the riparian vegetation which provides habitat for such species in the area. These resources are further detailed and more particularly described in the document(s): "Gold Line Phase II Pasadena to Montclair- Foothill Extension 2A Final Supplemental Environmental Impact Report (SEIR) Section 4.14.1-6 SCH No. 2003061157 Volume 1" dated December 2010, prepared for Metro Goldline Foothill Extension Authority by Jacobs and "Lake and Streambed Alteration Notification Package dated March 14, 2011 prepared for DFG by Permittee complete with all attachments and exhibits.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to DFG personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify DFG if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, DFG shall contact Permittee to resolve any conflict.

- 1.4 Project Site Entry. Permittee agrees that DFG personnel may enter the project site at any time to verify compliance with the Agreement.
- 1.5 Project Initiation and Completion. The Permittee shall notify DFG, by e-mail, at least five (5) days prior to initiation of construction (project) activities and at least five (5) days prior to completion of construction (project) activities.
- 1.6 Changes in Project. In the event that the project scope, nature, or environmental impact is altered by subsequent permit conditions by a local, state or federal regulatory authority, the Permittee shall either submit an Amendment request or re-Notify DFG of any project modification which conflicts with current conditions or project description.
- 1.7 Implement as Proposed Unless Directed Differently by Agreement. The agreed work includes activities associated with the Project Location and Project Description that is provided above. Specific work areas and mitigation measures are described on/in the plans and documents submitted by the Permittee with the Notification Package, including, and shall be implemented as proposed unless directed differently by this Agreement.

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

- 2.1 Rare, Threatened and Endangered Species. The biological information submitted for the proposed project indicated that the federal and state endangered least Bell's vireo and southwestern willow flycatcher have potential to occur onsite however focused surveys conducted for these species produced negative results. Additionally, two rare, threatened, and endangered plant species (slender-horned spineflower and Nevin's Barberry) have potential to occur within project limits. If work must be done within the bed, bank, and channel from April 15th to July 1st, the recognized active season of the least Bell's vireo and southwestern willow flycatcher, Permittee shall have a qualified wildlife biologist survey the proposed work area and the riparian area, from the I-210 Freeway bridge to the bottom of the San Gabriel River drop structure in the Santa Fe Dam Recreation Area, to verify the presence/absence of the least Bell's vireo and southwestern willow flycatcher, and any other threatened/endangered species which are known or likely to occur in the area. Surveys shall be conducted diurnally. Any survey methods which deviate from the above shall be approved by DFG, in writing, and the researcher shall have the required State and Federal permits. The Permittee shall also have qualified biologists conduct focus surveys in the project area during the blooming period for the presence/ absence of the slender-horned spineflower and the Nevin's Barberry. The results of any surveys, including negative findings, shall be provided to DFG, along with copies of all field notes, prior to the

commencement of work, or as otherwise specified. If DFG determines that any threatened or endangered species shall be negatively impacted by the work proposed, work at that location shall stop, and the habitat in question avoided until the species are no longer reliant on the area for survival as determined by a qualified biologist. If work needs to continue, Permittee shall obtain the appropriate federal and state permits for take of threatened or endangered species. Permittee shall contact DFG's Environmental Services for the South Coast Region (626) 797-3170 to obtain information on applying for the State Take Permit for State listed species.

2.2 Pre-Construction Survey. The Permittee shall have a qualified wildlife biologist conduct a pre-construction survey of the project area no earlier than two weeks prior to restoration activities to confirm the presence/absence of California gnatcatcher, Santa Ana sucker, arroyo chub, two-striped garter snake, Coast horned lizard, western pond turtle, rosy boa, Santa Ana speckled dace, Cooper's hawk, burrowing owl, coastal cactus wren, Southern California rufous crowned sparrow, San Diego woodrat, slender mariposa lily, Plummer's mariposa lily, San Gabriel Mountains dudleya, mesa horkelia, Robinson's peppergrass, Davidson's bushmallow, prostrate navarettia, Brandt's phacelia, rayless ragwort and/or other species of concern likely to be found in the area during the proposed operations. If evidence exists that additional surveys are required, survey techniques, timing, and schedule shall be approved by DFG. Survey results, analysis, and recommendations, along with the field notes shall be provided to DFG prior to commencing construction or within two weeks of completion of field surveys, whichever is earlier. Should any sensitive species be found during pre-project surveys and work must be done in identified areas during sensitive periods, the Permittee shall develop and implement a plan for the protection of these species. This plan shall be approved by DFG prior to commencing work. The results of any surveys and any protective measures instituted, as a part of the protection and monitoring plan shall be provided to DFG within one week from implementation. The Permittee shall be responsible for reporting all observations of threatened/ endangered species or of species of special concern to DFG's Natural Diversity Data Base within ten (10) days of sighting.

2.3 Biological Monitor. A qualified environmental monitor shall be present on site during initial ground or vegetation disturbing project-related activities. Following initial project-related activities, the qualified environmental monitor shall be present once a month throughout the project to monitor to the extent feasible, non-listed special-status and/or common ground dwelling vertebrates encountered in the path of project-related activities. The monitor shall make every effort to relocate the species out of harm's way to the extent feasible. Exclusionary devices may be erected to prevent the migration into or the return of species into the work areas if determined appropriate and feasible by the environmental monitor. Such exclusionary devices shall be checked by the

biologist, or designee of the biologist, on a daily basis to check/ensure continued exclusionary device effectiveness.

- 2.4 Protection Measures for Species in Harm's Way. If special-status species are observed within harm's way, the following protection measures shall be implemented at the discretion of the monitoring biologist: 1) utilize shovel, rake, or similar hand tool to gently re-direct the animal out of work area; 2) Install silt fence or other exclusionary fencing to prevent species from re-entering disturbance area; and 3) Capture/relocate species to appropriate habitat outside the disturbance area. The biological monitor shall have authority to temporarily stop construction activities until the species is determined to be out of harms way.
- 2.5 Nesting Raptors. To avoid impacts to nesting raptors, the Permittee shall not remove vegetation from the streambed or bank or associated riparian vegetation between February 15th and September 15th unless otherwise agreed to by DFG. However, work may occur during this time if a qualified biologist conducts a survey for nesting raptors within three days prior to the work in the area and ensures no nesting raptors or their nests shall be affected by the Project. If an active raptor nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. The buffer shall be within project limits, shall be delineated by temporary fencing, and be in effect as long as construction is occurring or until the nest is no longer active. DFG, depending upon construction activities and species, may approve a reduction of the buffer area; this approval shall be in writing.
- 2.6 Native Nesting Birds - The proposed project will result in the removal/disturbance of vegetation and therefore has the potential to directly impact a number of nesting native bird species.
- A. Migratory non-game native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918(50 C.F.R. Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory non-game birds (as listed under the Federal MBTA).
 - B. Proposed project activities (including disturbances to native and non-native vegetation, structures and substrates) should take place outside of the breeding bird season which generally runs from March 15th - Sept. 15th (as early as February 1 for raptors) to avoid take (including disturbances which would cause abandonment of active nests containing eggs and/or young). Take means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill (Fish and Game Code Section 86).

- C. If project activities cannot feasibly avoid the breeding bird season, the DFG recommends that beginning thirty days prior to the disturbance of suitable nesting habitat the project proponent should arrange for weekly bird surveys to detect any protected native birds in the habitat to be removed and any other such habitat within 300 feet of the construction work area (within 500 feet for raptors). The surveys should be conducted by a qualified biologist with experience in conducting breeding bird surveys. The surveys should continue on a weekly basis with the last survey being conducted no more than three days prior to the initiation of clearance/construction work. If a protected bird is found, the project proponent should delay all clearance/construction disturbance activities in suitable nesting habitat or within 300 feet of nesting habitat (within 500 feet for raptor nesting habitat) until August 31 or continue the surveys in order to locate any nests. If an active nest is located, clearing and construction within 300 feet of the nest (within 500 feet for raptor nests) shall be postponed until the nest is vacated and juveniles have fledged and when there is no evidence of a second attempt at nesting.
- D. Limits of project-related activities to avoid a nest should be established in the field with flagging and stakes or construction fencing. Project personnel should be instructed on the sensitivity of the area. The project proponent should record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to the protection of native birds.
- 2.7 Bat Protection - Bridges. Prior to work commencing at any bridge, the bridge shall be surveyed for bats by a qualified bat biologist. If bats are found, work on the bridge operations shall cease. Bats shall not be disturbed without specific notice to and consultation with DFG. DFG reserves the right provide additional provisions to this agreement designed to protect nesting/roosting bats. If the bridge is being replaced and bats were previously inhabiting or showing signs of inhabitation on the old bridge, new bat habitat shall be incorporated in the design of the new bridge.
- 2.8 Educational Program. The Permittee shall have a qualified wildlife biologist and qualified botanists prepare for distribution to all Permittee's contractors, subcontractors, project supervisors, and consignees a "Contractor Education Brochure" with pictures and descriptions of all DFG species of special concern, state- and federal- threatened or endangered species known to occur, or potentially occurring, on the project site. The Permittee's contractors and consignees shall be instructed to bring to the attention of the project biological monitor any sightings of species described in the brochure. A copy of this brochure shall be submitted to the DFG for approval prior to any site preparation activities.
- 2.9 Submit Documentation, Reports, and Surveys. All required documentation, reports and surveys described above shall be submitted to DFG's San Diego

Fish and Game office at 3883 Ruffin Road, San Diego, CA, 92123, Attn: Streambed Alteration Staff. Please note the Streambed Alteration Agreement number in the subject line.

- 2.10 Weather Limitations. The Permittee's activities within the stream course shall be limited to the dry period of the year when the stream is not actively flowing and/or when no measurable rain is forecasted within 72 hours. If measurable rain is predicted within 72 hours during construction, all activities shall cease and protective measures to prevent siltation/erosion shall be implemented/maintained. No work shall be conducted during rain events.
- 2.11 Hours of Operation and Lighting. A majority of the Permittee's construction activities are planned during daylight hours. If night work is required, lighting shall be shielded to direct light into the work area only.
- 2.12 Trash Receptacles. Permittee shall install and use fully covered trash receptacles with secure lids (wildlife proof) to contain all food, food scrapes, food wrappers, beverage and other miscellaneous trash.
- 2.13 Pets. Permittee shall not permit pets on or adjacent to the construction site.
- 2.14 Safety. Permittee shall ensure that no guns/or other weapons are on-site during construction, with the exception of the security personnel and only for security type functions. No hunting shall be authorized/permitted during construction.
- 2.15 Public Trespass. The work area shall be secured from trespass when (as determined by DFG) fish or wildlife resources are vulnerable to damage from unsupervised public access.

Work Areas and Vegetation Removal

- 2.16 Disturbance or Removal. Disturbance or removal of vegetation shall not exceed the limits approved by DFG. Any disturbed portions of any stream channel or lake margin outside of the project limits, within the high water mark of the stream or lake, shall be restored to their original condition under the direction of DFG.
- 2.17 Disturbance or Removal for Access Areas. Disturbance, removal, or trimming of vegetation for equipment access and construction shall not exceed the limits approved by DFG.
- 2.18 Temporary Disturbance. In areas of temporary disturbance within the San Gabriel River and Alta Vista Wash, where vegetation must be removed, native trees and shrubs, with DBHs of 3 inches or less (with the exception of the area with the proposed diversion dike), shall be cut to ground level with hand

operated power tools, rather than by grading. Mechanical grading shall take place once all the vegetation is removed.

- 2.19 Stockpiled Vegetation. Vegetation removed from the stream shall not be stockpiled in the stream bed or on its bank. The sites selected on which to push this material out of the stream should be selected in compliance with the other provisions of this Agreement. Where possible, brush piles shall be left outside the channel in upland areas to provide wildlife habitat, except where rodent populations may be deemed a nuisance (e.g. adjacent to agriculture lands and residential properties). Brush piles shall not be placed in areas that may impact sensitive floral resources or dormant seeds.
- 2.20 Flagging. The work area shall be flagged/marked to identify its limits within the stream and reservoir. Vegetation shall not be removed or intentionally damaged beyond these limits.
- 2.21 Identify Work Area to Workers. The work area, as represented in plans, shall be identified to all workers. Native vegetation shall not be removed or intentionally damaged beyond the designated limits.
- 2.22 Non-native Vegetation. Permittee shall remove non-native vegetation from the work area and disposal sites and shall dispose of it in a legal manner; in all cases it shall be placed in a manner which prevents its reestablishment in the Waters of the State, and in such a manner so that it does not negatively affect other sensitive native habitat communities. If Permittee determines that the treated non-native vegetation should be left in place, the Permittee shall provide DFG a written (letter, fax, E-mail) description of where and why the treated vegetation should not be removed. If Permittee does not receive a written (letter, fax, E-mail) positive response from DFG, the treated exotic vegetation shall be removed.
- 2.23 Living Native Vegetation. No living native vegetation shall be removed from the channel, bed, or banks of the stream, except as otherwise provided for in this Agreement.
- 2.24 Oak Tree Drip-Line. No equipment shall be operated within the drip-line of oak trees. If work occurs within the vicinity of oak trees then protective fencing shall be placed around the drip-line of oaks to prevent compaction of the root zone.
- 2.25 Inventory of Plants with DBH over 3". A complete inventory of native plants, by species and Diameter at Breast Height over 3" (DBH), which will be removed, if necessary, shall be submitted to the DFG no later than 60 days prior to project construction..

Equipment and Access

- 2.26 Staging and Storage Areas. Staging/storage areas for equipment and materials shall be located outside of the low flow channel of each the stream.
- 2.27 Motorized Equipment. All equipment and vehicles shall be clean and free of any weed seeds.
- 2.28 Work In Wetted Areas. Vehicles shall not be driven or equipment operated in water covered portions of a stream, or where wetland vegetation, riparian vegetation, or aquatic organisms may be destroyed, except as otherwise provided for in the Agreement and as necessary to complete authorized work.
- 2.29 Work Site Access. Access to each work site shall be from existing right-of-ways or existing access roads located at each site. No new roads shall be constructed for the purpose of work site access, with the exception of the installation of a temporary ramp for vehicular and equipment access at the San Gabriel River work site.
- 2.30 Vehicles on the stream/lake bed. Vehicles may be driven on the stream/lake bed to traverse the distance to the work site from the access point, and in the immediate vicinity (within 50 feet) of the work area, and only as necessary to accomplish authorized work.

Fill and Spoil

- 2.31 Fill and Spoil. Fill length, width, and height dimensions shall not exceed those of the original design/installation or the original naturally occurring topography, contour, and elevation. Fill shall be limited to the minimal amount necessary to accomplish the agreed activities. Except as otherwise specified in this Agreement, fill construction materials other than the temporary on-site artificial fill, shall consist of clean silt-free gravel or river rock.

Structures

- 2.32 Stream Diversion. When work in a flowing stream is unavoidable, the entire stream flow shall be diverted around the work area by a barrier, temporary culvert, new channel, or other means approved by the DFG. Location of the upstream and downstream diversion points shall be approved by the DFG. Construction of the barrier and/or the new channel shall normally begin in the downstream area and continue in an upstream direction, and the flow shall be diverted only when construction of the diversion is completed. Channel bank or barrier construction shall be adequate to prevent seepage into or from the work area. Diversion berms shall be constructed of inflatable dams, sand bags, or other approved materials. Channel banks or barriers shall not be made of earth or other substances subject to erosion unless first enclosed by sheet piling, rock rip-rap, or other protective material. The enclosure and the supportive material shall be removed when the work is completed and removal shall

normally proceed from downstream in an upstream direction. The Permittee shall obtain all written approvals from DFG prior to initiation of construction activities.

- 2.33 Continuous Flow. Flow diversions shall be done in a manner that shall prevent pollution and/or siltation and which shall provide flows to downstream reaches. Flows to downstream reaches shall be provided during all times that the natural flow would have supported aquatic life. Said flows shall be sufficient quality and quantity, and of appropriate temperature to support fish and other aquatic life both above and below the diversion. Normal flows shall be restored to the affected stream immediately upon completion of work at that location.
- 2.34 Rewatering. The Permittee shall take all necessary steps to contain sediment and reduce stream turbidity when the work area(s) are rewatered. The Permittee shall install an appropriate sediment control device downstream of the work area to filter sediment. Acceptable materials include silt fence, straw bales, or other appropriate devices to prevent sediment runoff during rewatering activities. Silt control shall remain in place only until the water running through the work area is clear of sediment.
- 2.35 Submit Diversion Plan. Construction activities shall be timed with the timing of water releases out of San Gabriel or Morris Reservoirs to ensure excess water is not present during construction activities. The proposed diversion plan included with the notification shall be consistent with the terms and conditions of this Agreement. Please submit to the DFG for review and approval, a revised diversion plan incorporating the terms and conditions described. Any changes in the original project description or DFG approved water pollution/water diversion plan shall be coordinated with the DFG. Coordination shall include the negotiation of additional Agreement provisions.
- 2.36 Structures. Structures and associated materials not designed to withstand high water flows shall be moved to areas above high water before such flows occur.
- 2.37 Remove Non-Static Materials. Any materials and equipment placed in seasonally dry portions of a stream or lake that could be washed downstream or could be deleterious to aquatic life shall be removed from the project site prior to inundation by high flows resulting from rainfall greater than the design storm event. The diversion dike is not included in this requirement. If the diversion dike is washed downstream all dike material shall be removed from the downstream area.
- 2.38 Sloped Areas. Areas of disturbed soils with slopes toward a stream or lake shall be stabilized to reduce erosion potential. Planting, seeding and mulching is conditionally acceptable. Where suitable vegetation cannot reasonably be expected to become established, non-erodible materials, such as coconut fiber matting, shall be used for such stabilization. Any installation of non-erodible

materials not described in the original project description shall be coordinated with the DFG. Coordination may include the negotiation of additional Agreement provisions for this activity.

Pollution, Sedimentation, and Litter

- 2.39 **Pollution and Litter Laws.** The Permittee shall comply with all litter and pollution laws. All contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of the Permittee to insure compliance.
- 2.40 **Equipment and Vehicles.** Any equipment or vehicles driven and/or operated within or adjacent to the stream/lake shall be checked and maintained daily, to prevent leaks of materials that if introduced to water could be deleterious to aquatic life.
- 2.41 **Stationary Equipment.** Stationary equipment such as motors, pumps, generators, and welders, located within or adjacent to the stream/lake shall be positioned over drip pans. Stationary heavy equipment shall have suitable containment to handle a catastrophic spill/leak. Clean up equipment such as extra boom, absorbent pads, skimmers, shall be on site prior to the start of construction.
- 2.42 **Equipment Maintenance.** No equipment maintenance shall be done within or near any stream channel or lake margin where petroleum products or other pollutants from the equipment may enter these areas under any flow.
- 2.43 **Spills.** The clean-up of all spills shall begin immediately. DFG shall be notified immediately by the Permittee of any spills and shall be consulted regarding clean-up procedures.
- 2.44 **Construction Material Waste.** Raw cement/concrete or washings thereof, asphalt, paint, construction waste, or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project-related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials, placed within or where they may enter a stream or lake, by the Permittee or any party working under contract, or with the permission of the Permittee, shall be removed immediately.
- 2.45 **Pollution, Sedimentation, and Litter.** No debris, soil, silt, sand, bark, slash, sawdust, rubbish, construction waste, cement or concrete or washings thereof, asphalt, paint, oil or other petroleum products or any other substances which could be hazardous to aquatic life, or other organic or earthen material from any logging, construction, or other associated project-related activity, shall be allowed to contaminate the soil and/or enter into or placed where it may be washed by rainfall or runoff into, waters of the State. Any of these materials,

placed within or where they may enter a stream or lake, by the Permittee or any party working under contract, or with the permission of the Permittee, shall be removed immediately. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.

2.46 Rock, Gravel, and Other Materials- Rock, gravel, and/or other materials shall not be imported to, taken from or moved within the bed or banks of the stream, except as otherwise addressed in this Agreement.

2.47 Cement and Concrete- Cement and concrete shall not be poured within in the streambed within 150 linear feet during the rainy season. The Permittee shall monitor the 7-day forecast; cement or concrete materials may be poured only if a 2-day clear window is predicted. Cement shall not be poured in or near a flowing stream, to reduce the potential for significant adverse impacts to the stream, water, or biota. Bridge deck concrete pours are not subject to this requirement.

Turbidity and Siltation

2.48 Weather Constrictions. If measurable rain with 25% or greater probability is predicted within 72 hours during project-related activities, all activities shall cease and protective measures to prevent siltation/erosion shall be implemented/maintained.

2.49 Minimize Turbidity/ Siltation. Silty/turbid water from dewatering or other activities shall not be discharged into the stream. Such water shall be settled, filtered, or otherwise treated prior to discharge. The ability to minimize turbidity/siltation shall be the subject of pre-construction planning and feature implementation.

2.50 Rising turbidity/Siltation Levels. Upon DFG determination that turbidity/siltation levels resulting from project-related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation, shall be halted until effective DFG approved control devices are installed, or abatement procedures are initiated.

2.51 Equipment Washing or Other Activities. Water containing mud, silt, or other pollutants from equipment washing or other activities, shall not be allowed to enter a flowing stream, or dry ephemeral stream, or placed in locations that may be subjected to high storm flows.

2.52 Silt Catchment Basin. Should a silt catchment basin be required, the following operational methods shall be employed:

- A silt catchment basin or basins (number and location to be determined by the DFG) shall be constructed across the stream immediately below the project site. This catchment basin(s) shall be constructed of silt-free gravel or other materials approved by the DFG.
- Upon completion of the project and after all flowing water in the area is clear of turbidity, the gravel along with the trapped sediment shall be removed from the stream.

Permitting and Safeguards

- 2.53 Permitting and Safeguards- DFG believes that permits/certification may be required from the United States Army Corps of Engineers, the California Regional Water Quality Control Board, or the State Water Resources Control Board for this project, should such permits/certification be required, a copy shall be submitted to DFG.

Maintenance

- 2.54 Maintenance- Except as otherwise permitted in this Agreement, the removal of soil, vegetation, and vegetative debris from the stream bed or stream banks is prohibited. The Permittee shall remove all human generated debris, such as lawn and farm cuttings, garbage and trash. The Permittee shall remove washed out culverts, and other construction materials, that the Permittee places within, or where they may enter the stream.

3. Compensatory Measures

To compensate for adverse impacts to fish and wildlife resources identified above that cannot be avoided or minimized, Permittee shall implement each measure listed below.

Mitigation

- 3.1 Compensatory Mitigation- Creation, Restoration, Enhancement. To compensate for the temporary loss of 0.82 acre of streambed vegetated with mulefat scrub and exotic non-native species the temporary impacts shall be restored to pre-project conditions through onsite revegetation and reseeding with vegetation native to the area impacted. Exotic non-native species shall not be used in revegetation efforts. The Permittee shall implement measures as described in the approved "Mitigation Plan for Temporary Impacts to the San Gabriel River Channel Gold Line Foothill Extension Phase II- Segment A" included as an attachment to the transmittal submitted subsequent to the notification for this Project, including measures to avoid impacts to the remaining 4.37 acres of DFG jurisdiction.

Exotic Species

Certificate of Service

I hereby certify that on this 29th day of December, 2011, I caused to be served a copy of the foregoing VERIFIED NOTICE OF EXEMPTION to be served by first class mail, postage prepaid, upon:

David T. Rankin
BNSF Railway Company
2511
2500 Lou Menk Drive – AOB-3
Fort Worth, TX 76131-2828

City of Azusa
213 E. Foothill Blvd.
Azusa, CA 91702

Karl Morell
Ball Janik LLP
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City of Duarte
1600 Huntington Drive
Duarte, CA 91010

Estes, Polly 731 Drake Ave.
Sausalito, CA 94965
Tel: 415-355-8001

City of Monrovia
415 South Ivy Avenue
Monrovia, CA 91016

Senator Dianne Feinstein
United States Senate
Washington, DC 20510

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California Office of Historic Preservation
Department Of Parks And Recreation
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Sacramento, CA 95816

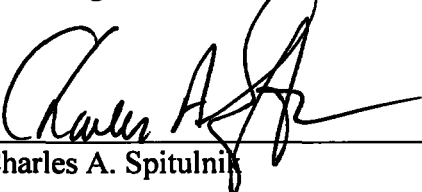
Special Assistant for Transportation Engineering &
Director
Railroads for National Defense Program
720 Thimble Shoals Boulevard, Suite 130
Newport News, VA 23606-4537

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

National Park Service
Recreation Resources Assistance Division
Pacific West Region
One Jackson Center
1111 Jackson Street, Suite #700
Oakland, CA 94607

City of Arcadia
P.O. Box 60021
Arcadia, CA 91066

U.S. Department of Agriculture
Chief of the Forest Service
1400 Independence Avenue, S.W.
Washington, DC 20250-0003
Attn: Abigail Kimbell, Chief of the Forest Service



Charles A. Spitulnik